



North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

September 15, 2014

CERTIFIED MAIL: 7011 3500 0000 4267 4833
RETURN RECEIPT REQUESTED

Mr. John Yates, Wilkes County Manager
110 North Street
Wilkesboro, North Carolina 28697

CERTIFIED MAIL: 7011 3500 0000 4267 4840
RETURN RECEIPT REQUESTED

Mr. Kent Brandon, Solid Waste Director
Post Office Box 389
Roaring River, North Carolina 28669

SUBJECT: Notice of Violation
Compliance Inspection Report
Roaring River Municipal Solid Waste Landfill Facility
Permit #: 97-04
Wilkes County

Dear Sirs:

On September 9, 2014, Charles Gerstell and Ervin Lane, representing the State of North Carolina, Division of Waste Management Solid Waste Section, inspected the above referenced facility for compliance with North Carolina solid waste statutes and rules. Mr. Kent Brandon, Solid Waste Director and Anderia Van Wy, Solid Waste Enforcement Officer, were present and represented the Roaring River Municipal Solid Waste Landfill during this inspection. The following violations were noted:

A. 15A North Carolina Administrative Code 13B .1626(1)(a) states: *"A MSWLF shall only accept those solid wastes which it is permitted to receive. The landfill owner or operator shall notify the Division within 24 hours of attempted disposal of any waste the landfill is not permitted to receive, including waste from outside the area the landfill is permitted to serve."*

15 North Carolina Administrative Code 13B .0203(d) states: *"By receiving solid waste at a permitted facility, the permittee(s) shall be considered to have accepted the conditions of the permit and shall comply with the conditions of the permit."*

General Facility Permit Condition #8 states: *"This facility is permitted to receive solid waste generated within Wilkes County, consistent with the local government waste management plan and with local government approval and as defined in G.S. 130-290 (a)(35), except where prohibited by N.C. General Statutes Article 9 of Chapter 130A, and the rules adopted by the Commission for Health Services."*

During the inspection, a load of waste was dumped at the working face that included a sign that read *"County of Burke Environmental Offices."* The facility is not permitted to receive waste from Burke County. Therefore, Wilkes County is in violation of 15A NCAC 13B .1626(1)(a), 15A NCAC 13B .0203(d), and General Facility Permit Condition #8.

- B. **15A North Carolina Administrative Code 13B .1626(2)(a) states:** *"Except as provided in Sub-item (b) of this item, the owner or operators of all MSWLF units must cover disposed waste with six inches of earthen material at the end of each operating day or at more frequent intervals if necessary, to control disease vectors, fires, odors, blowing litter, and scavenging."*

15 North Carolina Administrative Code 13B .0203(d) states: *"By receiving solid waste at a permitted facility, the permittee(s) shall be considered to have accepted the conditions of the permit and shall comply with the conditions of the permit."*

General Permit Condition #6 states: *"Construction and operation of this solid waste management facility must be in accordance with the Solid Waste Management Rules, 15A NCAC 13B, Article 9 of the Chapter 130A of the North Carolina General Statutes (NCGS 130A-290, et seq.), the conditions contained in this permit; and the approved plan. Should the approved plan and the rules conflict, the Solid Waste Management Rules shall take precedence unless specifically addressed by permit condition."*

- The approved Operations Plan for the facility is one document that constitutes the approved plan for the facility. **The approved Operations Plan for the facility states under Section 5.4 "Daily Cover":** *"At the end of each day's operation, compacted waste in the subcell shall be covered with either a minimum six inches of soil, or an approved alternative cover material approved by the Solid Waste Section (SWS). When soil is used for daily cover, at least two passes of heavy equipment will be made over the area to provide adequate soil compaction. Waste may be covered more frequently than once per day if necessary to control fires, odors, or blowing litter."*

During the inspection, insufficient cover was observed over a large portion of the landfill cell leaving waste exposed. Areas of concern included inactive areas west of the current working face, south of the working face near the new slope drain installed over the inactive south slope, and slightly north on the previous waste lift. Exposed waste was also observed in eroded gullies north of the current working face near the northern extent of the landfill and on the western slope of the landfill near an existing slope drain. Therefore, Wilkes County is in violation of 15A NCAC 13B .1626(2)(a), 15A NCAC 13B .0203(d), and General Permit Condition #6.

- C. **15A North Carolina Administrative Code 13B .1626(7)(b) states:** *"Adequate sediment control measures (structures or devices), shall be utilized to prevent on-site erosion."*

During the inspection, severe eroded gullies were observed north of the working face resulting in waste being exposed. Therefore, Wilkes County is in violation of 15A NCAC 13B. 1626(7)(b).

Based upon the foregoing, within **10-days** of receipt of this Notice of Violation, Wilkes County shall come into compliance with all requirements of the regulations in 15A NCAC 13B .1626(2)(a) by completing the following:

1. Verify origins of the waste load containing the sign with Burke County information and submit a written response to the Solid Waste Section detailing what actions will be taken by the county to prevent acceptance of waste from outside the approved service area for the facility. This can include, but not be limited to changes to the waste screening process to recognize waste generated from outside of the approved service area for the facility.
2. Cover all exposed waste with a minimum of 6-inches of earthen material. Areas which will not have additional wastes placed on them for 12-months or more, but where final termination of disposal operations has not occurred, shall be covered with a minimum of 1-foot of intermediate cover.
3. Install adequate sediment control measures (structures or devices) to prevent over-wash of slopes creating severe erosion that is leading to exposure of waste. Also, as required under #2 above, all eroded gullies north of the working face must be covered with appropriate earthen material.

The item(s) listed above were observed by Section staff and require action on behalf of Wilkes County in order to come into or maintain compliance with the Statutes, Rules, and/or other regulatory requirements applicable to this facility. Be advised that pursuant to N.C.G.S. 130A-22, an administrative penalty of up to \$15,000 per day may be assessed for each violation of the Solid Waste Laws, Regulations, Conditions of a Permit, or Order under Article 9 of Chapter 130A of the N.C. General Statutes. Further, Wilkes County and/or all responsible parties may also be subject to enforcement actions including penalties, injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules.

Please keep me informed of your progress in this matter. Solid Waste Section staff will conduct follow-up inspection(s) to verify that the facility has completed the requirements of this Notice of Violation.

September 15, 2014

If you have any questions please contact me at (704) 235-2144 or
charles.gerstell@ncdenr.gov.

Sincerely,



Charles T. Gerstell

Environmental Senior Specialist

Division of Waste Management - Solid Waste Section

Enclosure: Facility Compliance Inspection Report

copies: Jason Watkins, Branch Head
Sarah M. Rice, Compliance Officer